

Presentation to the NCVHS Subcommittee on Privacy and Confidentiality

Impact on State Agencies/Public Health Authorities

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Confidentiality of Medical Records, Health General 4-301

- Promulgated in 1991
- Established how medical records were to be maintained, used, disclosed, and authorized for release.
- Established definition of records including oral, written or transmitted in any fashion.
- Established individual rights to inspect, amend and correct information.

One “Best Practice” for Maryland’s implementation of Confidentiality Law

- Developed Resident Grievance System
- Established Rights Advisor to:
 - provide education for staff and residents on rights and responsibilities
 - collect patient opinions, concerns, grievances
 - investigate, mediate, negotiate and resolve complaints
 - provide information and assistance to patients regarding their health care and civil rights.

State/Federal Preemption Analysis

- Creation of the Maryland State Advisory Council on Medical Privacy and Confidentiality in 2000.
- Working, in conjunction with the Maryland Attorney General to complete analysis.
- The Health Law Section of the Maryland State Bar Association has a working subcommittee of government, industry, private bar and interested persons to employ a collaborative process to efficiently agree upon a comprehensive analysis of HIPAA relative to state law.

Medicaid Only Providers

- Medicaid, in addition to traditional medical services, often provides services in response to the needs of special populations.
- Services provided in Medicaid only programs are rarely covered by private insurers or Medicare.
- Service providers tend to be small and often responding to unmet social/public health concerns.
- The impact of rules and requirements in HIPAA are significant to providers, especially those of limited resources.
- The transaction sets requirements will send many small providers back to paper billing.

One “Best Practice” for Provider Education

- Medicaid-only providers remain the most vulnerable regarding all of HIPAA implementation
- Special consideration to education/training programs must be tailored to meet these needs of Medicaid providers.
- In the past, Maryland Medicaid has accomplished this by developing partnerships with public, private, and advocate organizations.

Partnership geared towards Special Population

- Provides training tailored to specific provider needs.
- Is often incorporated with education provided to patients and consumers.
- Training goals are supported by advocates.
- Funding assistance may be available through foundations, such as Robert Wood Johnson
- Reduction in cost through sharing of all entities' educational resources.

Education efforts and web sites in Maryland

- Provider education has already begun for much of Maryland's health care industry.
- The Maryland Health Care Commission provides a guide to privacy readiness with a web site: <http://www.mhcc.state.md.us>.
- The State Advisory Council on Medical Privacy and Confidentiality continues to provide information and recommendations.

DHMH Approach to Privacy Rule Training Mandate

- Contracted with vendor to develop the curriculum - including HIPAA and Corporate Compliance material
- Conducted “train-the-trainer” sessions for 100+ agency trainers
- Training underway for all 8,500 employees
- Recently added intranet web-based modules

Areas of outreach needed from OCR

- Provide information to counter the misinformation and overreaction within the healthcare industry
- Define what resources are available from OCR
 - Many look to OCR for assistance
 - What is feasible for us to expect

Areas of technical support needed from OCR

- Develop a model which the industry can use to identify what type of entity designation applies, and the requirements as a result.
- Provide standardized examples of required documents
 - Templates of NPP, policies and procedures
 - Assist in developing notices that are clear, readable and in multiple languages.
- Inexpensive and easy training materials.

HIPAA Privacy Implementation

- Integrating information will require more than regulations and contracts
 - require cultural change that will happen over a course of time
 - require continued education and clear messages of interpretation
 - require a level of enforcement that recognizes the demands of the tasks.